

REMARKS

In the Office Action dated February 3, 2009, the drawings are objected to. Claims 1 and 3-10 are rejected under 35 U.S.C. §112, first paragraph, and under 35 U.S.C. §112, second paragraph.

Applicants' attorney would like to thank Patent Examiner Natalia Levkovich for her time and courtesies extended during a telephone interview on April 17, 2009. During the interview, proposed amendments to the claims, substantially identical to the claim amendments submitted herewith, were discussed with reference to the §112, first and second paragraph issues. The Examiner indicated that she would consider the proposed claim amendments. No agreement was reached on the patentability of any claim.

The drawing objections and the rejection of claims 1 and 3-10 under 35 U.S.C. §112, first paragraph, will be considered together as these objections and rejections involve the same issue.

Applicants have amended claim 1 so that Applicants' invention is clearly defined as having a substrate, a plate and a gasket. Accordingly, it is respectfully submitted that Applicants' invention as defined in claim 1 meets the requirements of 35 U.S.C. §112, first paragraph, of a clear written description of the invention. The amendments to claim 1 render the drawing objection moot for the same reasons.

Claims 1 and 3-10 are rejected under 35 U.S.C. §112, second paragraph.

- A. With respect to claim 1, the Examiner queries: "the opposed edges of the plate engaged by the clamps is unclear. Does this mean that the clamps may be arranged across the same plate?"

The Examiner's query is not understood. The pair of C-shaped clamps are defined as engaging opposed edges of the plate and the substrate. Thus, the C-shaped clamps clearly engage the same plate, but on opposed edges of the plate. It is respectfully submitted that claim 1 particularly points out and distinctly claims this feature of Applicants' invention.

- B. The Examiner also queries: "it is also unclear whether the clamps must directly contact the plate."

Claim 1 clearly defines the pair of C-shaped clamps as engaging the edges of the plate and the substrate. Thus, it is submitted that claim 1 particularly points out and distinctly claims this feature of the Applicants' invention.

- C. The Examiner also queries: "Additionally, the reaction surfaces pre-deposited in "bound arrays," is unclear."

Applicants' have added the clarifying language "on the substrate" when describing the substrate having a plurality of reaction surfaces pre-deposited in microtiter well-bound arrays. It is submitted that this feature is particularly pointed out in claim 1. The Examiner is also reminded that, in an earlier interview in this application, the Examiner suggested the language "reaction surfaces pre-deposited in bound arrays" and has not objected to this language which has been part of a claim prior to the last Amendment.

- D. The Examiner states "Also, as a result of the amendment "the plate" of lines 7 plus lacks antecedency. See also claims 5 and 10."

It is respectfully submitted that "the plate" has proper antecedent basis in claims 1, 5 and 10.

- E. In claim 3, the Examiner states that "recess" lacks antecedent basis. Claim 3 has been amended to replace the term "recess" with "aperture" as previously defined in claim 3.

F. With respect to claim 4, the Examiner states: "It is unclear how clamps of line 2 are related to the "pair of C-shaped clamps" of claim 1." Accordingly, Applicants' have revised the language of claim 3 to provide antecedent basis for each clamp of the pair of C-shaped clamps.

G. Further with respect to claim 4, the Examiner states "It is further unclear whether or not the structure recited in lines 3-4 pertains to each clamp, or to the plurality of clamps in line 2." As noted in F above, Applicants' have revised the language of claim 4 to make it clear that the features of each clamp defined in claim 4 pertain to each of the clamps of the pair of C-shaped clamps.

H. With respect to claim 6, the Examiner states “each pair of clamps lacks antecedent basis.” By this amendment, “each pair of clamps” has been redefined as “the pair of C-shaped clamps” to provide proper antecedent basis.

I. Further with respect to claim 6, the Examiner states “Also, each pair of clamps defined by the wells in each stack, is not clear.” By this amendment, a comma has been introduced into line 3 of claim 6 to separate “each stack individually joined together by the pair of C-shaped clamps” from “the wells in each stack maintaining a microtiter plate well spacing across the array.”

For these reasons, and in view of the amendments to the claims, it is respectfully submitted that Applicants’ invention as set forth in claims 1 and 3-10 particularly points out and distinctly claims the subject matter which the Applicants’ regard as the invention as required by 35 U.S.C. §112, second paragraph.

In the “Final” Office Action, the Examiner concluded that Applicants’ previously filed arguments had been fully considered, but are rendered moot in view of the new grounds of rejection under 35 U.S.C. §112, first and second paragraphs. As the only rejection raised by the Examiner in the “Final” Office Action was under 35 U.S.C. §112, first and second paragraphs, and since such rejections have been overcome for the reasons stated above, it is respectfully submitted that claims 1 and 3-10 are in condition for immediate allowance; a notice of which is respectfully requested.

Entry of this Amendment under the provisions of Rule 37 C.F.R. 1.116 is submitted to be warranted and is respectfully requested. This Amendment after a final Office Action (1) does not raise new issues that would require further consideration and/or search by the Examiner, since the proposed amendments merely provide antecedent basis for several of the terms and provide consistent term usage throughout the claims; (2) does not raise the issue of new matter since the proposed amendments have complete support in the originally filed application, including the specification, claims and drawings; (3) places the application in condition for allowance by overcoming all of the objections and rejections leaving only

allowable claims in the application; (4) places the application in better form for appeal in the event that the Examiner disagrees with any of Applicants' revisions of the claims to address the §112 rejections; and (5) does not present any additional claims.

This after "Final" Amendment was necessitated by the Examiner raising the rejections under 35 U.S.C. §112, first and second paragraphs for the first time in the final Office Action. This Amendment could not have been presented earlier since the Examiner had not made this specific §112 rejections prior to the final Office Action. This is Applicants' attorney's first opportunity to address these new rejections raised by the Examiner for the first time in the final Office Action.

Accordingly, the issuance of a Notice of Allowance for claims 1 and 3-10 is submitted to be warranted and is respectfully requested.

Respectfully submitted,

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